

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ROSENFELD & COMPANY, PLLC, : Case No. 1:21-cv-03858  
:  
Plaintiff, : **DECLARATION OF**  
:  
- against - : **MARK K. ANESH, ESQ.**  
:  
: **SUBMITTED IN SUPPORT**  
: **OF MOTION TO DISMISS**

TRACHTENBERG, RODES & FRIEDBERG LLP, STAR AUTO SALES OF BAYSIDE, ICN. (d/b/a STAR TOYOTA: OF BAYSIDE), STAR AUTO SALES OF QUEENS, LLC (d/b/a STAR SUBARU), STAR HYUNDAI LLC (d/b/a: STAR HYUNDAI), STARR NISSAN, INC. (d/b/a STAR NISSAN), METRO CHRYSLER PLYMOUTH INC. (d/b/a: STAR CHRYSLER JEEP DODGE), STAR AUTO SALES OF QUEENS COUNTY LLF (d/b/a STAR FIAT), and: STAR AUTO SALES OF QUEENS VILLAGE LLC (d/b/a STAR MITSUBISHI),

*Judge Victor Marrero*

Defendants.

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STAR AUTO SALES OF BAYSIDE, INC. (d/b/a STAR: TOYOTA OF BAYSIDE), STAR AUTO SALES OF QUEENS, LLC (d/b/a STAR SUBARU), STAR HYUNDAI: LLC (d/b/a STAR HYUNDAI), STAR NISSAN, INC. (d/b/a STAR NISSAN), METRO CHRYSLER: PLYMOUTH INC. (d/b/a STAR CHRYSLER JEEP DODGE), STAR AUTO SALES OF QUEENS COUNTY: LLC (d/b/a STAR FIAT), and STAR AUTO SALES OF QUEENS VILLAGE LLC (d/b/a STAR MITSUBISHI), :

Third-Party Plaintiffs, :

- against - :

BARRY J. FRIEDBERG and LEONARD A. RODES, :

Third-Party Defendants.

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**MARK K. ANESH, ESQ.** declares the following under penalty of perjury pursuant to 28

U.S.C. § 1746:

1. I am a partner of the law firm Lewis Brisbois Bisgaard & Smith LLP, counsel for Defendant TRACHTENBERG, RODES & FRIEDBERG LLP (“TRF”), and Third-Party Defendants BARRY J. FRIEDBERG, ESQ., AND LEONARD A. RODES, ESQ. (collectively, the “TRF Defendants”), in the above-captioned action. I submit this declaration in support of the TRF Defendants’ instant motion to dismiss the First Amended Cross-Claims and Third-Party Complaint (ECF Doc. No. 73) filed by Defendants/Third-Party Plaintiffs STAR AUTO SALES OF BAYSIDE, INC., STAR AUTO SALES OF QUEENS, LLC, STAR HYUNDAI LLC, STAR NISSAN, METRO CHRYSLER PLYMOUTH INC., STAR AUTO SALES OF QUEENS COUNTY LLC, AND STAR AUTO SALES OF QUEENS VILLAGE LLC (collectively, “Star”).

2. Annexed hereto as **Exhibit A** is a true and accurate copy of the Complaint with exhibits filed by Plaintiff ROSENFELD & COMPANY, PLLC (“R&C”) on the docket herein (ECF Doc. Nos. 1, 1-1, 1-2). Within (attached to R&C’s Complaint as **Exhibit A**) is the engagement letter between R&C and TRF dated October 24, 2019 (the “2019 Engagement”) (ECF Doc. No. 1-1). The 2019 Engagement Letter states in pertinent part that:

The retention shall be as of December 1, 2017, and [R&C] has worked and will continue to work under the direction of Counsel [(TRF)]. . .

The Client [(Star)] will be solely responsible for payment of all [ ] fees and expenses. [R&C] will submit invoices for its fees and expenses incurred on a monthly basis in connection with this Engagement directly to the Client [(Star)], with a copy sent to Counsel [(TRF)].”

(2019 Engagement Letter, at p. 1.)

3. Annexed hereto as **Exhibit B** is a true and accurate copy of the Answer with First Amended Counter -Claims, Cross-Claims, and Third-Party Complaint filed by Star on the docket herein against the TRF Defendants (ECF Doc. No. 73).

4. Annexed hereto as **Exhibit C** is a true and accurate copy of the retainer agreement between TRF and Star dated December 1, 2017 (the “2017 Retainer”). The 2017 Retainer states in pertinent part:

[Star] have jointly and severally retained [TRF] to represent [Star] to consider and prosecute as mutually agreed claims [ ] against [Star’s] former account, Voynow, Bayard, White & Company LLP[.] ... We will also work with your counsel at the Milman Labuda firm and [Star’s] new accountants at [TRF] as mutually agreed.

[TRF] will advance or incur certain necessary costs ... on [Star’s] behalf throughout the representation[.] ... [Star] agree[s] to reimburse [TRF] for all such expenses.

(2017 Retainer at p. 1).

5. Annexed hereto as **Exhibit D** are true and accurate copies of invoices sent from TRF to Star regarding services rendered pursuant to the 2017 Retainer Agreement.

Dated: New York, New York  
July 15, 2022

By: /s/ Mark K. Anesh  
Mark K. Anesh, Esq.

**LEWIS BRISBOIS BISGAARD & SMITH LLP**

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*Attorneys for Defendants Trachtenberg Rodes &  
Friedberg LLP and Third-Party Defendants Barry J.  
Friedberg, Esq., and Leonard A. Rodes, Esq.*  
File No. 50031.2179

To: All Parties and Counsel of Record (via ECF)

**CERTIFICATE OF SERVICE**

Undersigned counsel certifies that a true and accurate copy of the foregoing, with attached exhibits was electronically filed and served upon all parties and counsel of record who receive notification via the Court's Electronic Case Filing system on \_\_ July 15, 2022 \_\_.

Dated: New York, New York  
July 15, 2022

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/ Mark Anesh

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